



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Mr. Walt Harner, Director  
Bureau of Waste Management  
Pennsylvania Department of Environmental Protection  
Rachel Carson State Office Building  
400 Market Street  
Harrisburg, Pennsylvania 17101

FEB 03 2017

Dear Mr. Harner,

This letter concerns issues raised by the Pennsylvania Department of Environmental Protection's (PADEP's) issuance of General Permit for Beneficial Use - WMGR096, which allows for the use of "regulated fill" containing Polychlorinated Biphenyls (PCBs) at concentrations between 2 and 200 parts per million (ppm), depending on the Aroclor, for a total PCB concentration of up to 484.5 ppm, as construction material at permitted sites. The federal Toxic Substances and Control Act, 15 U.S.C. Section 2605(e), and EPA implementing regulations at 40 C.F.R. Part 761 impose limitations on and requirements for the use and disposal of PCB-containing materials. It is EPA's judgment that PADEP regulations authorizing the disposition of PCB-containing materials in the manner provided for in WMGR096 are likely preempted under TSCA.

Further, the use or disposal of PCB-containing materials in a manner that is not permitted under TSCA or its implementing regulations is a violation of federal law, notwithstanding compliance with PADEP regulations or conditions of WMGR096 allowing such use or disposal. EPA considers activities permitted under WMGR096 which involve PCB-containing materials at or above 2 ppm (as determined in accordance with 40 C.F.R. 761.1(b)(2)) but which are not authorized, exempted or excluded by the PCB regulations at 40 C.F.R. Part 761 to be prohibited under those regulations.

EPA will be contacting you in the near future to discuss these matters. If you have any questions prior to our future discussions, please contact Harry Daw, Associate Director of the Office of Toxics and Pesticides at [daw.harry@epa.gov](mailto:daw.harry@epa.gov) at (215) 814-3244.

Sincerely,

A handwritten signature in cursive script, reading "Catherine A. Libertz", is positioned above the typed name.

Catherine A. Libertz, Acting Director  
Land and Chemicals Division



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